THE HON'BLE SRI JUSTICE V.ESHWARAIAH

W.P.No.4325 of 2007

05-03-2007

Between:-

Veera Koti Basava Mallayya and others.

Petitioners

And

The Government of Andhra Pradesh,
Rep., by its Principal Secretary,
Revenue (Land Acquisition), Secretariat,
Hyderabad and three others.

Respondents

ORDER:

The petitioners' lands are sought to be acquired by the issuance of a draft notification dated 04-01-2007 under Section 4 (1) of the Land Acquisition Act, 1894 (for short 'the Act'). Urgency was not invoked and the enquiry under Section 5-A of the Act was not dispensed with. Draft declaration under Section 6 of the Act dated 18-02-2007 has however been issued, without issuing notice to the petitioners calling for objections under Section 5-A of the Act.

The impugned notification states that the acquisition is for the purpose of allotment to the Integrated Special Economic Zone. The inquiry under Section 5-A of the Act is not dispensed with in the draft notification under Section 4(1) of the Act. Factually, no inquiry under Section 5-A of the Act has been conducted. This is a serious violation of the provisions of the Act.

Consequently, the draft notification under Section 6 of the Act is invalid and liable to be quashed. The enquiry under Section 5-A of the Act is a salutary statutory provision intended for affording a reasonable opportunity to the owners of lands to object to the acquisition on any relevant grounds as they wish to submit.

The respondents are directed to issue notice to the petitioners for submission of objections if any to the proposal to acquire the lands. On the petitioners' submitting their objections within the time stipulated in the notice, the same shall be considered and an appropriate decision be taken duly communicating the decision to the petitioners simultaneously with the recommendations made after the enquiry under Section 5-A of the Act by the acquiring authority. The petitioners shall not be dispossessed pending communication of the decision to the petitioners consequent on the enquiry under Section 5-A of the Act. The draft declaration issued under Section 6 of the Act dated
18-02-2007 is quashed.

The writ petition is disposed of as above at the stage of admission, after hearing the learned counsel for the petitioners and the learned Government Pleader for Land Acquisition. There shall however be no order as to costs.

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V.ESWARAIAH,J

Dated: 05.03.2007
Prv